

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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DARRELL D. CAGE,

Plaintiff,

-vs-

Case No. 14-CV-633

WARDEN PAUL KEMPER,  
R. MALONE, T. THOMAS,  
MICHELLE BONES, and REOTHA COLE,

Defendants.

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**DECISION AND ORDER**

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On September 30, 2014, the plaintiff filed a motion for default judgment based on the defendants' failure to file a responsive pleading. Federal Rule of Civil Procedure 55(a) provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." A judgment of default may, thereafter, be entered on application to the Court. Fed. R. Civ. P. 55(b).

Here, in the July 28, 2014, Screening Order that was entered on July 29, 2014, the defendants were ordered to file a responsive pleading within 60 days of electronic receipt of the order, or by September 29, 2014. The defendants filed their answer on October 1, 2014, two days late.

Defaults are disfavored, and the United States Court of Appeals for the Seventh

Circuit has expressed a strong preference in favor of trial on the merits over entry of a default judgment. *Sun v. Bd. of Trustees for Univ. of Ill.*, 473 F.3d 799, 811 (7th Cir. 2007). A “default judgment, like a dismissal, is a harsh sanction which should usually be employed only in extreme situations, or when other less drastic sanctions have proven unavailing.” *C.K.S. Engineers, Inc. v. White Mountain Gypsum Co.*, 726 F.2d 1202, 1205 (7th Cir. 1984). The fact that the Court received an answer, albeit a belated one, is a proper consideration in resolving a motion for default judgment. *See Semler v. Klang*, 603 F. Supp.2d 1211, 1219 (D. Minn. 2009). Based on the foregoing, the plaintiff’s motion for default judgment will be denied.

**IT IS THEREFORE ORDERED** that the plaintiff’s motion for default judgment (Docket # 10) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 7th day of October, 2014.

**SO ORDERED,**

  
**HON. RUDOLPH T. RANDA**  
**U. S. District Judge**